

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMES WASHINGTON, JR.,

Plaintiff,

5:22-cv-810 (BKS/ATB)

v.

OFFICER CHILDS and
ADRIAN PARIS,

Defendants.

Appearances:

Plaintiff Pro Se:
James Washington, Jr.
17556
Jefferson County Jail
753 Waterman Drive
Watertown, NY 13601

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff pro se James Washington, Jr. brought this action on August 1, 2021, alleging, inter alia, Defendants violated his federal rights. This case was referred to United States Magistrate Judge Andrew T. Baxter who, on August 23, 2022, issued a Report-Recommendation recommending that Plaintiff's complaint be dismissed without prejudice to Plaintiff amending his complaint to cure the defects as stated in the Report-Recommendation. (Dkt. No. 7, at 8). Magistrate Judge Baxter advised Plaintiff that under 28 U.S.C. § 636(b)(1), he had fourteen days within which to file written objections to the Report, and that the failure to object to the Report within fourteen days would preclude appellate review. (Dkt. No. 9, at 4-5).

On September 1, 2022, Plaintiff filed a letter further describing the incident underlying

his complaint. (Dkt. No. 8). For the reasons set forth below, the Report-Recommendation is adopted, and the complaint is dismissed without prejudice and with leave to amend.

This court reviews *de novo* those portions of the Magistrate Judge’s findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). “A proper objection is one that identifies the specific portions of the [report-recommendation] that the objector asserts are erroneous and provides a basis for this assertion.” *Kruger v. Virgin Atl. Airways, Ltd.*, 976 F. Supp. 2d 290, 296 (E.D.N.Y. 2013) (internal quotation marks omitted). Properly raised objections must be “specific and clearly aimed at particular findings” in the report. *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009). “[E]ven a pro se party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal” *Machicote v. Ercole*, No. 06-cv-13320, 2011 WL 3809920, at *2, 2011 U.S. Dist. LEXIS 95351, at *4 (S.D.N.Y. Aug. 25, 2011) (citation omitted). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.*

Plaintiff has failed to identify any portion of the Report-Recommendation that Plaintiff asserts to be error. Plaintiff’s September 1, 2022 letter alleges details of “exactly what happened to land [Plaintiff] in Jefferson County Jail.” (Dkt. No. 8). However, Plaintiff’s letter does not address the Report-Recommendation or contain any objections to it.¹ Thus, Plaintiff has failed to preserve an objection to the Report-Recommendation, and the Court’s review is for clear error. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts it for the reasons stated therein.

For these reasons, it is hereby

¹ Plaintiff is free to include the factual allegations contained in his September 1, 2022, letter in any amended complaint.

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 7) is **ADOPTED** in all respects; and it is further

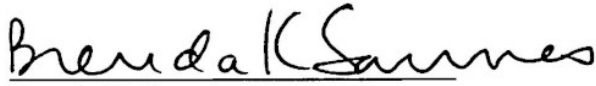
ORDERED that Plaintiff's complaint is **DISMISSED** without prejudice, with leave to file an amended complaint; and it is further

ORDERED that any amended complaint must be filed **within forty-five (45) days** of the date of this Order. Any amended complaint must be a complete pleading which will replace the current complaint in total; and it is further

ORDERED that if Plaintiff files a timely amended complaint, it shall be referred to Magistrate Judge Baxter for review; and if Plaintiff fails to file a timely amended complaint, the Clerk is directed to close this case; and it is further

ORDERED that the Clerk serve a copy of this Order on the Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.


Brenda K. Sannes
Chief U.S. District Judge

Dated: October 14, 2022
Syracuse, New York